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be handled under the modified procedure or be assigned to the Office of Hearings. In carrying out these duties, the Secretary shall consult, as necessary, with the General Counsel and the Director of any other Board Office to which an individual proceeding has been assigned.

(d) Except as provided at 49 CFR 1113.3(b)(1), authority to dismiss a complaint on complainant's request, or an application on applicant's request, is delegated to the Secretary and to the Chief Administrative Law Judge.

(e) [Reserved]

(f) Authority to grant or deny access to waybills and to statistics reported under orders of the Board is delegated to the Director of the Office of Economics.

(g) Certain accounts in the Uniform Systems of Accounts, 49 CFR parts 1200 through 1207, require Board approval to use. Authority to grant or deny requests for use of these accounts is delegated to the Director of the Office of Economics, the Deputy Director of Economics—Accounts, and the Chief of the Section of Audit and Accounting.

(h) The Secretary of the Board is delegated authority, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, to:

(1) Sign and transmit to the Small Business Administration certifications of no significant economic effect for proposed rules, that if adopted by the Board, will not have a significant economic impact on a substantial number of small entities; and

(2) Sign and transmit findings regarding waiver or delay of an initial regulatory flexibility analysis or delay of a final regulatory flexibility analysis.

(i) Issuance of certificates and decisions when no protest is received within 30 days after an abandonment or discontinuance application is filed under 49 U.S.C. 10903, and the Board must find, under 49 U.S.C. 10904(b) that the public convenience and necessity require or permit the abandonment or discontinuance, is delegated to the Director of the Office of Proceedings.

(j) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has

been filed is delegated to the Director of the Office of Proceedings.

[58 FR 29357, May 20, 1993, as amended at 61 FR 52710, Oct. 8, 1996; 62 FR 50884, Sept. 29, 1997]

### **§ 1011.8 Delegations of authority by the Board to specific offices of the Board.**

(a) *Office of Public Assistance.* (1) There is established an Office of Public Assistance. The Office assumes the functions previously assigned to the former Office of Special Counsel, the former Small Business Assistance Office, and the State/Community Affairs Liaison position formerly in the Office of Legislation and Governmental Affairs.

(2) The Office shall be managed by a Director, who also serves as Special Counsel of the Board, and by a Deputy Director, who also serves as the Small Business Assistance Officer of the Board. The Special Counsel shall be appointed by the Chairman, subject to the approval of a majority of the Board.

(3) The mission of the Office is to assist the Board and the public in determining and representing the public interest, with regard to the Interstate Commerce Act and related statutes. The primary function of the Office is to act as the focal point to coordinate Board activities ensuring that:

(i) The public interest is fully developed in proceedings before the Board and especially to contribute to the development of a complete record in proceedings in which important aspects of the public interest otherwise would not be explored adequately, particularly proceedings affecting the interests of bus passengers, household goods shippers, owner operators, and classes II and III rail carriers and the shippers they serve;

(ii) Small and minority-owned transportation entities, transportation-related entities, consumer groups, small communities, carriers and shippers, and State regulatory officials are advised on the applicability of the law and of the availability of assistance from the Board as this applies to their enterprise; and

(iii) The Board is advised on policy matters regarding its small business assistance functions and programs.

(4) The Office will participate as a party in Board proceedings, including rulemakings, only on the filing of a petition seeking, and on the approval of a majority of the Board granting, such recourse.

(5) The Office of Hearings, in noticing cases for public hearings, shall advise parties of the availability of assistance from the Office of Public Assistance.

(b) *Office of the Secretary.* The Secretary of the Board is delegated the following authority:

(1) Whether (in consultation with involved Offices) to waive filing fees set forth at 49 CFR 1002.2(f).

(2) To issue, on written request, informal opinions and interpretations (exclusive of informal opinions and interpretations on carrier tariff provisions), which are not binding on the Board. In issuing informal opinions or interpretations, the Secretary shall consult with the Director of the appropriate Board office. Such requests must be directed to the Office of the Secretary, Legal Branch, Surface Transportation Board, Washington, DC 20423. Authority to issue informal opinions and interpretations on carrier tariff provisions is delegated at 49 CFR 1011.8(d)(2) to the Office of Tariffs.

(c) *Office of Proceedings.* The Director of the Office of Proceedings shall have authority initially determinative of the following:

(1) Whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing).

(2) Whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10905(d) for the purpose of negotiations or, in exemption proceedings, for purposes of partial revocation and negotiations.

(3) Whether: (i) To impose, modify, or remove environmental and historic preservation conditions; and

(ii) In abandonment proceedings, to impose public use conditions under 49 U.S.C. 10906 and the implementing regulations at 49 CFR 1152.28.

(4) In abandonment proceedings, when a request for interim trail use/rail banking is filed under 49 CFR

1152.29, determining whether the National Trails System Act, 16 U.S.C. 1247(d), is applicable and, where appropriate, issuing Certificates of Interim Trail Use or Abandonment (in application proceedings) or Notices of Interim Trail Use or Abandonment (in exemption proceedings).

(5) In any abandonment proceeding where interim trail use/rail banking is an issue, to make such findings and issue decisions as may be necessary for the orderly administration of the National Trails System Act, 16 U.S.C. 1247(d).

(6) Whether to institute requested declaratory order proceedings under 5 U.S.C. 554(e).

(7) In all exemption proceedings under 49 U.S.C. 11343(e) involving non-rail intermodal parties, to make such findings as necessary and to issue notices of exemption.

(8) To issue decisions, after 60 days' notice by any person discontinuing a subsidy established under 49 U.S.C. 10905 and at the railroad's request:

(i) In application proceedings, immediately issuing certificates of abandonment or discontinuance; and

(ii) In exemption proceedings, immediately vacating the decision that postponed the effective date of the exemption.

(9) In proceedings under the Feeder Railroad Development Program under 49 U.S.C. 10910 and the implementing regulations at 49 CFR part 1151:

(i) Whether to accept or reject primary applications under § 1151.2(b); competing applications under § 1151.2(c); and incomplete applications under § 1151.2(d);

(ii) Whether to grant waivers from specific provisions of 49 CFR part 1151.

(10) In exemption proceedings subject to environmental or historic preservation reporting requirements, to issue a decision, under 49 CFR 1105.10(g), making a finding of no significant impact where no environmental or historic preservation issues have been raised by any party or identified by the Board's Section of Energy and Environment.

(11) Whether to issue notices of exemption under 49 U.S.C. 10505:

(i) For acquisition, lease, and operation transactions under 49 U.S.C. 10901

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and the implementing regulations at 49 CFR part 1150, subpart D; and

(ii) For rail transactions under 49 U.S.C. 11343 and the implementing regulations at 49 CFR 1180.2(d).

(12) Whether to issue rail modified certificates of public convenience and necessity under 49 CFR part 1150, subpart C.

(13) Whether to waive the regulations at 49 CFR part 1152, subpart C, on appropriate petition.

(14) To reject applications, petitions for exemption, and verified notices (filed in class exemption proceedings) for noncompliance with the environmental rules at 49 CFR part 1105.

(15) To reject applications by Burlington Northern Railroad Company to abandon rail lines in North Dakota exceeding the 350-mile cap of section 402 of Public Law 97-102, 95 Stat. 1465 (1981), as amended by The Department of Transportation and Related Agencies Appropriations Act, 1992, Public Law 102-143, section 343 (Oct. 28, 1991).

(16) Whether to extend the 120-day limit within which 49 U.S.C. 10706(b)(3)(B)(vii) mandates that rate bureaus shall finally dispose of rules or rates docketed with them.

(17) Whether, absent controversy or unusual circumstances, to issue notices of provisional recertification under *State Intrastate Rail Rate Authority*, 5 I.C.C.2d 680, 684 (1989).

(d) *Office of Compliance and Enforcement.* The Office of Compliance and Enforcement is delegated the authority to:

(1) Reject tariffs and railroad transportation contract summaries filed with the Board that violate applicable statutes, rules, or regulations. Any rejection of a tariff or contract summary may be by letter signed by or for the Director, Office of Compliance and Enforcement, or the Chief, Section of Tariffs, Office of Compliance and Enforcement.

(2) Issue, on written request, informal opinions and interpretations on carrier tariff provisions, which are not binding on the Board.

(3) Grant or withhold special tariff authority granting relief from the provisions of 49 CFR part 1312. Any grant or withholding of such relief may be by letter signed by or for the Director, Of-

fice of Compliance and Enforcement, or the Chief, Section of Tariffs, Office of Compliance and Enforcement.

(4) Resolve any disputes that may arise concerning the applicability of motor common carrier rates under 49 U.S.C. 13710(a)(2).

[58 FR 29357, May 20, 1993, as amended at 62 FR 50884, Sept. 29, 1997]

### PART 1012—MEETINGS OF THE BOARD

Sec.

1012.1 General provisions.

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1012.5 Transcripts; minutes.

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1012.7 Meetings which may be closed to the public.

AUTHORITY: 5 U.S.C. 552b(g), 49 U.S.C. 701, 721.

SOURCE: 42 FR 13796, Mar. 11, 1977, unless otherwise noted.

#### § 1012.1 General provisions.

(a) The regulations contained in this part are issued pursuant to the provisions of 5 U.S.C. 552b(g), added by section 3(a) of the Government in the Sunshine Act, Pub. L. 94-409 (Act), and section 17(3) of the Interstate Commerce Act. They establish procedures under which meetings of the Surface Transportation Board (Board), Divisions of the Board (Division), and standing committees of the Board are held. They apply to oral arguments as well as to deliberative conferences. They apply to meetings of the Board and of Divisions and committees of the Board where the Division or committee is empowered to act on the Board's behalf, but not where a Division or committee is meeting only to formulate an internal recommendation to the Board. They include provisions for giving advance public notice of meetings, for holding meetings which may lawfully be closed to the public, and for issuing minutes and transcripts of meetings.

(b) The words *meeting* and *conference* are used interchangeably in this part to mean the deliberations of at least a majority of the members of the Board, a Division, or a committee of the Board